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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/502,096   | 07/22/2004  | Jesper Bach Norgaard | 66722-056-7         | 3996             |
| 25269  | 7590        | 02/26/2007           | EXAMINER            |                  |
| DYKEEMA GOSSETT PLLC<br>FRANKLIN SQUARE, THIRD FLOOR WEST<br>1300 I STREET, NW<br>WASHINGTON, DC 20005 |             |                      | LE, HUYEN D         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2615                |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE   | MAIL DATE   | DELIVERY MODE        |                     |                  |
| 3 MONTHS   | 02/26/2007  | PAPER                |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                       |                  |
|------------------------------|-----------------------|------------------|
| <b>Office Action Summary</b> | Application No.       | Applicant(s)     |
|                              | 10/502,096            | NORGAARD ET AL.  |
|                              | Examiner<br>Pownen Ru | Art Unit<br>2615 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10/17/2006 and 12/05/2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,3-7 and 11-21 is/are allowed.
- 6) Claim(s) 8-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10/17/2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

This is the initial office action based on the application filed on 2/7/2002, amended on 10/17/2006. The supplemental amendment on 12/05/2006 has been fully considered. The examiner appreciates the attorney's effort to make the claims clearer. Claims 1 and 3-21 are currently pending and have been considered below.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss et al. (4,972,488).

Claim 8: Weiss discloses wax filter (barrier 200, col 11 lines 53-58, Fig. 22) for a hearing aid (202, col 11 line 18-22, Fig. 13) sound outlet opening (acoustical outlet port 206, Fig. 13) vent opening or sound canal, whereby the wax filter comprises

an essentially tubular element (cylindrical housing 222, col 11 lines 45-46, as shown in Fig. 11 and 22) adapted to the mouth diameter of the acoustic passage (e.g., opening 214, col 11 lines 32-33, Fig. 13) or the vent where the tubular element at a first opening (bottom) has an ear wax retaining barrier (screen 320, col 4 lines 55-58, Fig. 22), whereby

the filter is made of a rigid material (e.g., molded thermoplastic material, col 11 line 44) and

the tubular element at its second opening (top) has an outwardly extending flange portion (tip of the collar 232, Fig. 41) and an inwardly extending flange (bottom edge of the collar 232, Fig. 41) for removal of the filter from the acoustic outlet port or the vent (col 16, lines 56-66, as shown Fig. 41).

Claim 9: Weiss discloses the filter as in Claim 8; and further discloses that the inwardly extending flange at the second opening has a surface facing away from the opening of the filter whereby said surface extends perpendicular to the length axis of the tubular element (i.e., see the arrangement of the bottom edge of the collar 232 in Fig. 22 for a better view, but not labeled).

Claim 10: Weiss discloses the filter as in Claim 8; and further discloses that the innermost diameter (thread grooves of the barrier, Fig. 41) of the inwardly-extending flange is smaller (as shown in Fig. 41) than the diameter of the outwardly extending flange (projections 354A and 354B, col 17 lines 9-10, Fig. 41) on the corresponding extraction tool (barrier driver 342, Fig. 36).

#### ***Allowable Subject Matter***

3. Claims 1, 3-7, and 11-21 are allowed. None of prior art teaches that the two tool parts are arranged side-by-side along one and the same edge part of the gripping part in combination with all of the limitations of the base claims.

***Response to Arguments***

4. Applicant's arguments with respect to Claims 8-10 have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's arguments, see page 12 para 4 - page 13 para 3, filed 10/17/2006, with respect to Claim 2 have been fully considered and are persuasive. The corresponding rejection has been withdrawn. Claim 2 has been cancelled by the applicant. As the allowable subject matter has been incorporated to Claims 1 and 15, Claims 1, 3-7, and 11-21 are therefore allowable.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. For example, removing "or" in line 8 of Claim 8 further narrows the claim scope to invalidate the previous reference. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2615

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Powen Ru whose telephone number is 571-270-1050. The examiner can normally be reached on Monday-Friday 7:30am-4:00pm EST/EDT. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7654. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SINH TRAN  
SUPERVISORY PATENT EXAMINER

PR  
12/22/2006